



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Dentistry
124 Halsey Street, 6th Floor, Newark, NJ 07102



JOHN J. HOFFMAN
Acting Attorney General

ERIC T. KANEFSKY
Director

July 29, 2013

Melinda Wagner, D.M.D.
c/o Pamela Mandel, Esq.
45 Essex Street, Suite
Millburn, NJ 07041

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 7-29-13 *BA*

Mailing Address:
P.O. Box 45005
Newark, NJ 07101
(973) 504-6405

Re: Request to Amend Consent Order

Dear Dr. Wagner,

The New Jersey State Board of Dentistry received correspondence from Dr. Louis Baxter of the Professional Assistance Program of New Jersey (PAPNJ). Specifically, Dr. Baxter reports that you have been in continuous documented recovery. Additionally, he requests that your monitoring arrangement be modified to permit you to move into the Advocacy II program with the PAP, to include twice per year visits and random urine monitoring twice per year. The Board considered this request and directed me to respond to you on its behalf.

Please be advised that based on the report from Dr. Baxter, the Board approved a modification of this term of the Consent Order filed by the Board on March 16, 2011. All other terms of the Consent Order remain in effect. Further modifications may be requested by writing to the Board, which will examine your request at that time.

Thank you for your cooperation with the Board. If you have any additional questions or concerns, please do not hesitate to contact the Board's office at the address noted above. The Board wishes you well in your ongoing recovery.

Very truly yours,
STATE BOARD OF DENTISTRY

Jonathan Eisenmenger
Jonathan Eisenmenger
Executive Director

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101
Attorney for State Board of Dentistry

RECEIVED AND FILED
WITH THE
N.J. BOARD OF DENTISTRY
ON 3-16-11 DA

By: Nancy Costello Miller
Deputy Attorney General
(973) 648-4735

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF DENTISTRY

IN THE MATTER OF

MELINDA WAGNER, D.M.D.
License No. 22DI 01414200

Administrative Action

CONSENT ORDER

LICENSED TO PRACTICE DENTISTRY
IN THE STATE OF NEW JERSEY

The New Jersey State Board of Dentistry ("Board") received information alleging that Melinda Wagner, D.M.D. ("Dr. Wagner" or "respondent"), had engaged in the use of illegal drugs and had prescribed medication for non-medical or dental purposes for herself, a family member, and a friend.

Dr. Wagner appeared before the Board at two separate inquires accompanied by counsel (John Paul Dizzia, Esq., and Pamela Mandel, Esq., respectively). In her testimony, Dr. Wagner acknowledged past drug use, for which she received treatment, and denied

that she had used illegal drugs since that time. She acknowledged that she had prescribed medications for herself, and controlled dangerous substances for a family member and for a friend whom she knew had a substance abuse problem. Dr. Wagner did not record the prescriptions or any existing dental condition warranting the prescriptions in the patients' records.

Having reviewed the entire record, including the testimony of respondent at the investigative inquiry, it appears to the Board that respondent's conduct amounts to professional misconduct in violation of N.J.S.A. 45:1-21(e); failing to maintain patient records as required by N.J.A.C. 13:30-8.7, in violation of N.J.S.A. 45:1-21(h); and prescribing or distributing controlled dangerous substances indiscriminately or without good cause in violation of N.J.S.A. 45:1-21(m). These facts provide a basis for discipline.

It appears that respondent desires to resolve this matter without admissions and without recourse to formal proceedings and the Board having determined that this resolution is sufficiently protective of the public health, safety, and welfare, and for good cause shown:

IT IS ON THIS 16th DAY OF March, 2011,

HEREBY ORDERED AND AGREED THAT:

1. The license of Melinda Wagner, D.M.D., shall be suspended for a period of two (2) years, commencing on April 1, 2011, of which the first four months shall be an active suspension, and the remainder stayed and served as a period of probation.
2. Respondent is reprimanded for writing prescriptions for herself and other individuals without a valid medical or dental purpose.

3. Respondent shall pay a civil penalty of \$15,000 for violation of N.J.S.A. 45:1-21(e), (h) and (m). Payment of the penalty shall be made by certified check or money order, payable to the State of New Jersey, and forwarded to Jonathan Eisenmenger, Executive Director, Board of Dentistry, P.O. Box 45005, 124 Halsey Street, Newark, New Jersey 07101, in twelve monthly payments of \$1,250. The first payment shall be due on May 1, 2011 and continue on the first of each succeeding month until all payments are made. In the event that respondent does not make a timely payment, the full balance will immediately become due. Subsequent violations will subject respondent to enhanced penalties pursuant to N.J.S.A. 45:1-25.

4. Respondent is assessed the costs of the investigation to the State in this matter in the amount of \$9,812.04. Payment for the costs shall be made in two payments of \$4,906.02 submitted by certified check or money order made payable to the State of New Jersey and submitted to the Board on or before December 1, 2011 and on or before February 1, 2012. Payment shall be forwarded to the same address as listed in paragraph 3 above.

5. Respondent shall enroll or continue her enrollment in the Professional Assistance Program of New Jersey ("PAP") and shall comply with all recommendations of the PAP for treatment and/or evaluation.

6. Respondent shall abstain from the use of any and all intoxicating substances, including but not limited to alcohol, as well as any controlled dangerous substances except pursuant to a bona fide prescription written by a physician or dentist for good medical or dental cause in her own treatment. In addition, respondent shall advise any and all treating

physicians and/or dentists of her history of substance abuse. Respondent shall cause any physician or dentist who prescribes medication which is a controlled dangerous substance to provide a written report to the Professional Assistance Program and the Board together with patient records indicating the need for such medication. Such report shall be provided no later than two (2) days subsequent to the prescription in order to avoid confusion which may be caused by a confirmed positive urine test as a result of such medication.

7. (a) Respondent shall submit to random urine screens as directed by the PAP and consistent with her duration in recovery. The urine screen monitoring program, as well as the laboratory facility conducting the urine testing must be approved by the Board. The Board shall provide respondent and the PAP with specific directions for the protocol of the testing procedure. All urine screens must be directly observed and respondent shall comply with all additional urine screen procedures and protocols outlined and prescribed by the Board. The urine screen requirement shall continue until further order of the Board expressly reducing or discontinuing testing. The initial drug screen shall utilize appropriate screening techniques and all confirming tests and/or secondary tests shall be performed by gas/chromatography/mass spectrometry (G.C./M.S.). The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and to provide documentation in the event of a legal challenge. The Board may, in its sole discretion, modify the frequency of testing or method of testing during the monitoring period.

(b) All test results shall be provided to the executive director of the Board, or his designee in the event he is unavailable. The Board retains sole discretion to modify the manner and the extent of testing in the event technical developments or individual

requirements indicate that a different methodology or approach is required in order to guarantee the accuracy and reliability of the testing.

(c) Any failure by respondent to submit or provide a urine screen within twenty-four (24) hours of a request will be deemed to be equivalent to a confirmed positive urine test. In the event respondent is unable to appear for a scheduled urine test or provide a urine sample due to illness or other impossibility, consent to waive that day's test must be secured from the Professional Assistance Program. Personnel at the lab facility shall not be authorized to waive a urine test. In addition, respondent must provide the PAP with written substantiation of her inability to appear for a test within two (2) days, e.g., a physician's report attesting that respondent was so ill that she was unable to provide the urine sample or appear for the test. "Impossibility" as employed in this provision shall mean an obstacle beyond the control of respondent that is so insurmountable or that makes appearance for the test or provision of the urine sample so infeasible that a reasonable person would not withhold consent to waive the test on that day.

(d) In the event respondent will be out of the State for any reason, the PAP shall be so advised so that arrangements may be made at the Board's discretion for alternate test

(e) Any urine test result showing creatinine levels below 20 mg/dL and a specific gravity below 1.003 shall be deemed dilute and a presumption of a confirmed positive urine test shall arise requiring a confirming test by hair analysis or other appropriate means

(f) Respondent shall familiarize herself with all foods, food additives, or other products (such as poppy seeds) which may affect the validity of urine screens, be presumed to possess that knowledge, and shall refrain from the use of such substances. Ingestion

of such substances shall not be an acceptable reason for a positive urine screen and/or failure to comply with the urine monitoring program.

(g) The Professional Assistance Program shall provide the results of all urine tests to the Board on a quarterly basis. The Professional Assistance Program shall report any positive urine test to the Board within 48 hours of receiving the results of the test. The Professional Assistance Program shall also report any other information indicating that respondent has failed to comply with any terms of this order. Such notification shall be made in writing within 48 hours of discovering the non-compliant conduct.

8. Respondent shall only be permitted to write prescriptions for patients as required in connection with dental treatment or administer medication to patients in the course of dental treatment, in accordance with the following terms and conditions:

(a) Respondent may prescribe or dispense controlled dangerous substances.

(b) Respondent shall use sequentially numbered prescription pads for all prescriptions written.

(c) For each CDS prescription written, respondent shall provide the original prescription to the patient, attach one copy of the prescription to the patient record, and submit the third copy to the Board, attention Executive Director, on a monthly basis. For purposes of this order, the first month commences on August 1, 2011. The first submission shall be due no later than September 1, 2011, for all CDS prescriptions written from the time respondent returns to practice following the period of active suspension.

(d) Respondent shall be required to account for each consecutively numbered prescription, regardless of whether the particular prescription was voided or not used for any

purpose whatsoever. Respondent shall maintain copies of all non-CDS prescriptions and make them available for review upon the request of the Board or its designee.

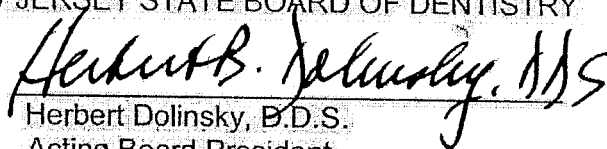
9. Respondent shall have face-to-face follow-up with a clinical representative of the Professional Assistance Program as directed by the Executive Medical Director of the Professional Assistance Program.

10. Failure to remit any payment required by this Order will result in the filing of a certificate of debt.

11. Failure to comply with any of the terms of this consent order may result in further disciplinary action.

NEW JERSEY STATE BOARD OF DENTISTRY

By:


Herbert Dolinsky, B.D.S.
Acting Board President

I have read and understand this consent order and agree to be bound by its terms. I consent to the entry of this order.


Melinda Wagner, D.M.D.

3/15/11
Date

I consent to the form and entry of this order.


Pamela Mandel, Esq.

3/16/11
Date